

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 583

By Senators Stuart, Azinger, Deeds, Phillips, Smith,

Tarr, Taylor, and Roberts

[Originating in the Committee on Transportation and

Infrastructure; and then to the Committee on the

Judiciary; reported February 23, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §55-7-32, relating to employer liability and damages in civil actions based upon
3 alleged negligence in the operation of commercial motor vehicles; defining terms;
4 establishing monetary caps; and providing exceptions to applicability to established
5 monetary caps.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Limit on liability for noneconomic loss – operation of commercial motor vehicles.

1 (a) In any civil action for personal injury or wrongful death involving the operation of a
2 commercial motor vehicle requiring a commercial driver’s license, the maximum amount
3 recoverable by each plaintiff against the employer defendant of a commercial motor vehicle as
4 compensatory damages for noneconomic loss may not exceed \$5 million for each occurrence,
5 regardless of the number of claims, theories of liability, or defendants.

6 (b) The limitation on noneconomic damages contained in subsection (a) of this section is
7 not available to any employer defendant that does not have commercial motor vehicle insurance in
8 the aggregate amount of at least \$3 million for each occurrence covering the personal injury that is
9 the subject of the action.

10 (c) This section does not apply if the civil action involving a commercial motor vehicle
11 arises from an incident for which an employee is found to have:

12 (1) Operated a commercial motor vehicle with an alcohol concentration of .04 or more, as
13 defined in §17E-1-14 of this code.

14 (2) Refused to submit to testing required under §17E-1-14 of this code.

15 (3) Operated a commercial motor vehicle under the influence of any controlled substance,
16 other drug, or inhalant substance.

17 (d) On January 1, 2026, and in each year thereafter, the limitation for compensatory
18 damages contained in subsection (b) of this section shall increase to account for inflation by an

19 amount equal to the Consumer Price Index published by the United States Department of Labor,
20 not to exceed 150 percent of the amounts specified in said subsections.

21 (e) As used in this section:

22 "Commercial motor vehicle" means as defined in § 17E-1-3(7) (A), (B), and (D) of this
23 code, and also includes a truck tractor, road tractor, trailer, and semitrailer, and pole trailer as
24 defined in §17A-1-1 of this code. For purposes of this section, "commercial motor vehicle" does
25 not include a vehicle serving as a common carrier of passengers, a commercial motor vehicle as
26 defined in §17E-1-3(7)(C) of this code, a school bus as defined in §17E-1-3(33) of this code, or
27 other vehicle that is primarily engaged in transporting passengers.

28 "Employee" means a person who works for another person for compensation as an
29 operator of a commercial motor vehicle in interstate and intrastate commerce to transport property,
30 deliver or transport goods, or provide services. The term includes a person deemed an employee
31 under state or federal law, including 49 C.F.R. §390.5, and any other agent or person to whom an
32 employer defendant may be liable under respondeat superior. The term does not include an
33 employee of the United States, any state, or any political subdivision of a state.

34 "Employer defendant" means (A) the owner of a commercial motor vehicle, (B) the
35 employer of the person operating a commercial motor vehicle, or (C) any other person or entity
36 that owns, leases, rents, or otherwise holds or exercises legal control over a commercial motor
37 vehicle or operator of a commercial motor vehicle.

38 "Noneconomic loss" means losses, including, but not limited to, pain, suffering, mental
39 anguish, and grief.

40 "Operation" means driving, operating or being in physical control of a commercial motor
41 vehicle in any place open to the general public for purposes of vehicular traffic.